

07hr_SC-ENR_CRRule_06-102_pt01



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Environment and Natural Resources (SC-ENR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR ... bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (June/2014)

Senate

Record of Committee Proceedings

Committee on Environment and Natural Resources

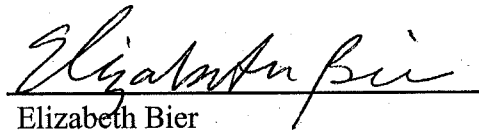
Clearinghouse Rule 06-102

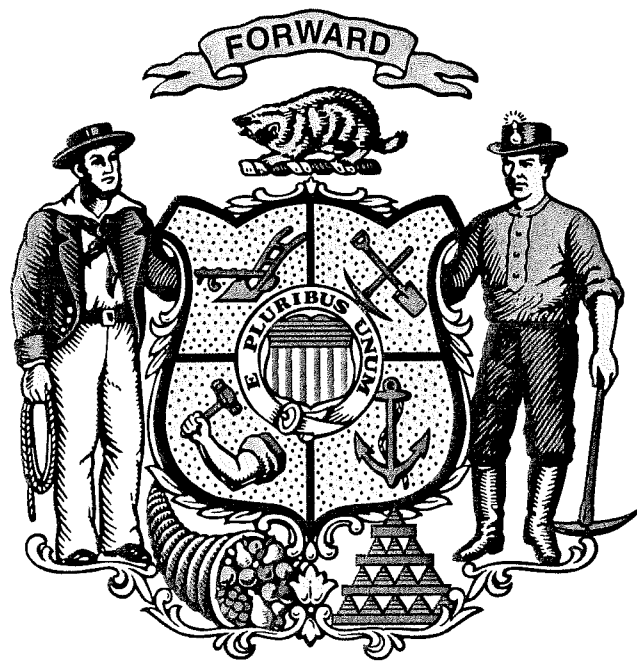
Relating to hazardous waste management.

Submitted by Department of Natural Resources.

January 08, 2007 Referred to Committee on Environment and Natural Resources.

February 8, 2007 No action taken.


Elizabeth Bier
Committee Clerk



REPORT TO LEGISLATURE

NR 660, 662 and 665, Wis. Adm. Code
Hazardous waste management

Board Order No. WA-30-06
Clearinghouse Rule No. 06-102

Basis and Purpose of the Proposed Rule

The U.S. Environmental Protection Agency (EPA) recently promulgated significant revisions to the manifest regulations that went into effect on September 5, 2006. The new EPA regulations require the use of standard manifest forms in all states, and require certification from EPA in order to print the manifest forms. The new federal requirements apply in all states, including Wisconsin, but will not override or supersede Wisconsin's state-specific hazardous waste manifest requirements. To prevent legal confusion and potential conflicts with our current manifest rules, they must be revised or the advantages of a single, uniform nationwide rule will be lost.

The proposed rules incorporate the relevant portions of the EPA's changes and eliminate most Wisconsin-specific manifest requirements, including the use of the Wisconsin manifest form for waste shipped into or within the state, or to another state that did not supply manifest forms. The Department will continue to require copies of final signed manifests to be sent to the Department for shipments received by Wisconsin treatment and storage facilities, and from generators for shipments of waste sent out of state for treatment and disposal.

The revised rules require the use of national uniform manifest forms with a standardized set of instructions and requirements that apply in all states. The EPA regulations require certification from EPA in order to print and distribute the national uniform manifest forms. Manifest users will obtain manifests from EPA-certified printers, rather than obtaining them from the Department.

Summary of Public Comments

No public comments were received.

Modifications Made

The Department made minor revisions to correct oversights and omissions from the proposed rule taken to public hearing.

Appearances at the Public Hearing

There were no appearances at the public hearing.

Changes to Rule Analysis and Fiscal Estimate

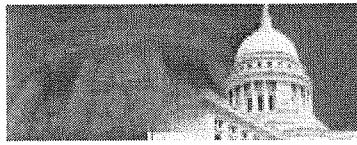
None were required.

Response to Legislative Council Rules Clearinghouse Report

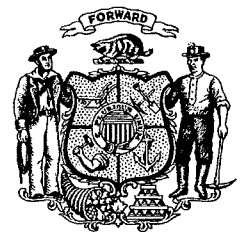
The recommendations were accepted.

Final Regulatory Flexibility Analysis

The Department evaluated the impacts of the revised rules on small businesses, as required by ch. 227, Stats. We considered the methods listed in s. 227.114(2), Stats., to reduce the impact of the rule on small businesses and incorporated methods that were feasible. Based on our evaluation, the Department determined that the revised rules will not have a significant impact on a substantial number of small businesses. Therefore, a final regulatory flexibility analysis is not required.



WISCONSIN STATE LEGISLATURE



State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. WA-30-06

Legislative Council Rules Clearinghouse Number 06-102

Subject of Rules Hazardous waste management

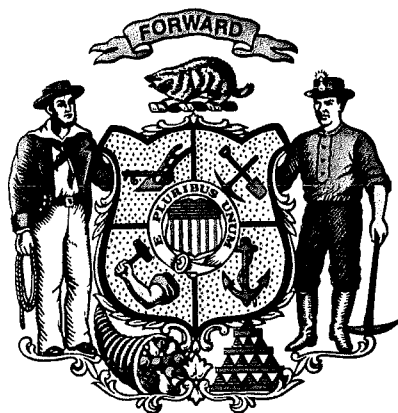
Date of Transmittal to Presiding Officers January 4, 2007

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LS/5, 101 South Webster

Telephone: 266-1959
e-mail: turnec@dnr.state.wi.us

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner



Hazardous Waste Manifest Rule Revisions WA-30-06

Background and Purpose of Revisions to Hazardous Waste Manifest Rules

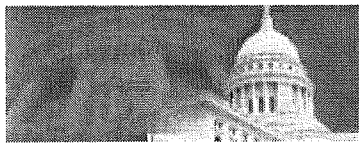
Hazardous waste generators and transporters have been required to use hazardous waste manifests for more than 20 years. The manifests provide a complete paper trail of a waste's progress; from a generator, through treatment or storage, to final disposal.

The purpose of the proposed revision to the NR 600 series Hazardous Waste rules is to incorporate new, uniform Federal hazardous waste manifest regulations, which went into effect nationwide on September 5, 2006.

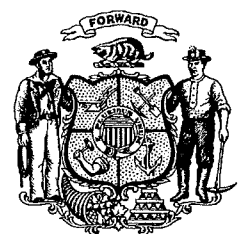
This is a federally mandated requirement. In the past, states had the option to require the use of state manifest forms, with state-specific information required on the forms. The proposed rule eliminates conflicting state manifest requirements, which help to insure the safe transportation and management of hazardous wastes in Wisconsin.

In August 2006, the Natural Resources Board adopted an emergency rule, which also went into effect on September 5. The permanent rule was adopted by the Board at its December meeting; however, in light of the statutory timeframe for Legislative review of proposed rules, the Joint Committee on the Review of Administrative Rules approved an extension to the emergency rule at a hearing on January 17.

These rule revisions affect greater than 1,650 generators of hazardous waste. They are not considered controversial by the regulated community and are in fact supported by several of the state's largest commercial hazardous waste management facilities, two of whom have expressed this in letters to the Chairman of the Natural Resources Board. These companies are Waste Research and Reclamation, Eau Claire and Safety Kleen with facilities throughout the state and the US.



WISCONSIN STATE LEGISLATURE



Fiscal Estimate — 2005 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number NR 600 Series

Subject

Revisions to the Hazardous Waste Manifest Rules.

Fiscal Effect

State: ☐ No State Fiscal Effect
☐ Indeterminate

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs — May be possible to absorb
within agency's budget.

☐ Yes ☐ No

☒ Decrease Costs

Local: ☒ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs
 ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
 ☐ Permissive ☐ Mandatory

3. ☐ Increase Revenues
 ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues
 ☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities

☐ Counties ☐ Others _____

☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☒ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Hazardous waste generators, transporters, and treatment, storage and disposal facilities have been required by law to use hazardous waste manifests for more than 20 years. The manifests provide a complete paper trail of a waste's progress from a generator through treatment or storage to final disposal. Although this is a federally mandated requirement, states have had the option to provide and require the use of state-specific manifest forms, which Wisconsin has done. The Department annually spent around \$7,000 from the Federal Hazardous Waste Grant to print and provide manifest copies to its customers.

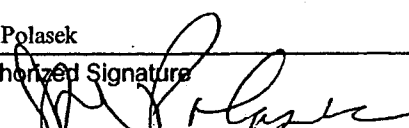
EPA has made changes to the federal hazardous waste manifest system which include mandatory use of a new federal manifest form. State-specific forms can no longer be used after the federal requirements take effect in September 2006, and the federal forms must be obtained from a select number of EPA-certified printers.

The proposed rules eliminate all Wisconsin-specific manifest requirements, including the use of the Wisconsin manifest form for waste shipped into or within the state, or to another state that did not supply manifest forms. Instead, the revised rules propose to require the use of national uniform manifest forms with a standardized set of instructions and requirements that apply in all states. The EPA regulations require certification from EPA in order to print and distribute the national uniform manifest forms. Manifest users will obtain manifests from EPA-certified printers, rather than obtaining them from the department.

The department will continue to require copies of final signed manifests to be sent to the department for shipments received by Wisconsin treatment and storage facilities, and from generators for shipments of waste sent out of state for treatment disposal.

Long-Range Fiscal Implications

There are no long-range fiscal implications from these rule revisions.

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 06-26-06

Fiscal Estimate Worksheet — 2005 Session Detailed Estimate of Annual Fiscal Effect

☒ Original ☐ Updated
☐ Corrected ☐ Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 600 Series

Subject
Revisions to the Hazardous Waste Manifest Rules.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None.

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$		\$ -
(FTE Position Changes)	(FTE)	(- FTE)	
State Operations — Other Costs			- 7,000
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category	\$		\$ -
B. State Costs by Source of Funds			
GPR	\$		\$ -
FED			- 7,000
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes	\$		\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S		0	-
Total State Revenues	\$	0	\$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	\$	\$ -7,000
Net Change in Revenues	\$	\$

Prepared By:

Joe Polasek

Authorized Signature

Telephone No.

266-2794

Telephone No.

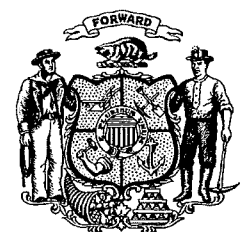
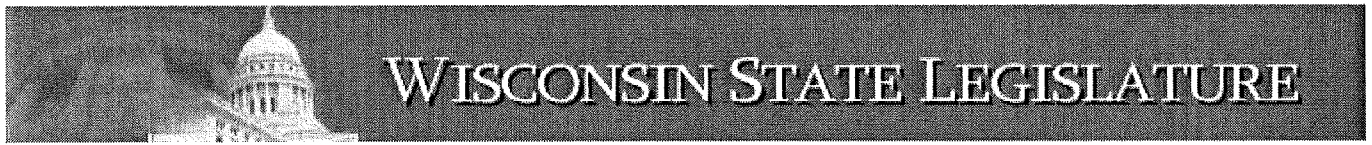
266-2794

Agency

Department of Natural Resources

Date (mm/dd/ccyy)

06-26-06





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 06-102

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

- a. There is no need to delete “manifest” in s. NR 662.020 (1), and then insert the same word after that.
- b. In s. NR 665.0072 (1) (intro.), “any of the following” should be inserted before the colon.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 06-102

AN ORDER to repeal NR 662.021; to amend NR 660.10 (21), (76) and (77), 661.07 (2) (a) 3. a. and b., 662.020 (1), 662.032 (2), 662.033, 662.054 (3) and (5), 662.060 (3), 663.20 (1) and (7) (a) and (b), 666.21 (2), 664.0070 to 664.0072, 664.0076, 665.0071, 665.0072 and 665.0076; and to create NR 662.027, 662.034 (13) and 662.060 (4) and (5) (as affected by Natural Resources Board Order No. WA-10-05) (Clearinghouse Rule 05-032) effective August 1, 2006), relating to hazardous waste management.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

08-25-2006 RECEIVED BY LEGISLATIVE COUNCIL.

09-20-2006 REPORT SENT TO AGENCY.

RNS:MCP

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☐ NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES ☐ NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

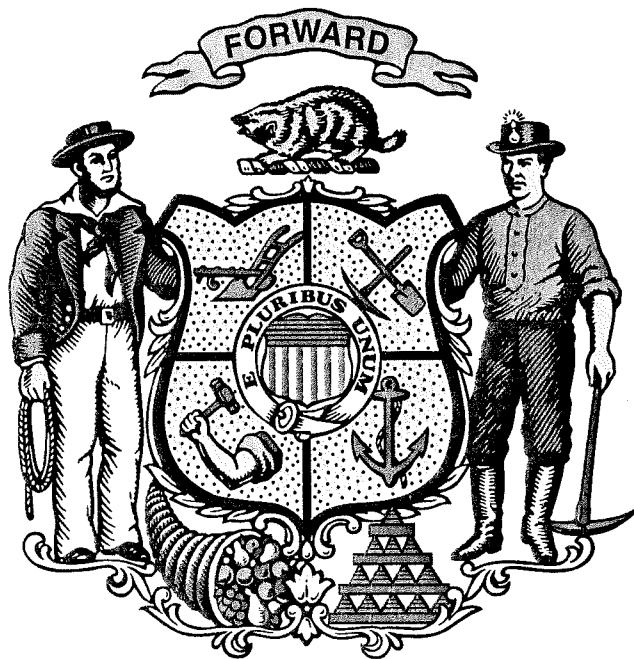
Comment Attached YES ☐ NO ☒

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES ☐ NO ☒



**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to repeal NR 662.021, amend NR 660.10 (21), (76) and (77), 661.07 (2) (a) 3. a. and b., 662.020 (1), 662.032 (2), 662.054 (3) and (5), 662.060 (3), 663.20 (1) and (7) (a) and (b), 663.21 (2), 664.0070 to 664.0072, 664.0076, 664.1086 (3) (d) 1. and (4) (d) 1., 665.0071, 665.0072, 665.0076, 665.1087 (3) (d) 1. and (4) (d) 1. and 666.905 (1) (f) and create NR 662.023 (3) Note, 662.027, 662.034 (13), 662.060 (4) and (5) and 662.192 (5) (as affected by Natural Resources Board Order No. WA-10-05 (Clearinghouse Rule 05-032) effective Aug. 1, 2006), relating to hazardous waste management.

WA-30-06

Analysis Prepared by the Department of Natural Resources

- 1. Statutes interpreted:** Sections 227.14 (1m) (b), 291.21 (6), 291.23 (2) and 291.25 (3), Stats.
- 2. Statutory Authority:** Sections 227.11 (2) (a), 227.14 (1m), 291.05 (5) (a), (6) (b) and (7) and 291.07 (2) Stats.
- 3. Explanation of agency authority to promulgate the rules under the statutory authority:** The proposed rules update current rules that comprehensively regulate the requirements that manifest documents be used in conjunction with the transportation of hazardous waste. The department has determined that all or part of the state's hazardous waste regulatory program is to be administered according to standards, requirements, or methods which are similar to standards, requirements or methods of U.S. Environmental Protection Agency (EPA). Accordingly, as authorized by s. 227.14(1m)(b), Stats., the format of the rules is similar to the federal regulations published in the code of federal regulations by the EPA under the resource conservation and recovery act (RCRA).

When the Wisconsin legislature passed the Hazardous Waste Management Act in 1977 it set out a declaration of policy in what is now s. 291.001, Stats., regarding hazardous waste management. It found that hazardous wastes, when mismanaged, pose a substantial danger to the environment and public health and safety. To provide for proper management of hazardous waste within the state, the legislature called upon the department to develop and administer a regulatory program that met 9 specific objectives.

Section 291.001, Stats., calls for a program that: (1) Relies upon private industry or local units of government to provide hazardous waste management services, (2) Requires the transportation, storage, treatment and disposal of hazardous wastes to be performed only by licensed operators, (3) Requires generators of hazardous waste to utilize operators licensed to transport, treat, store or dispose of hazardous wastes, (4) Does not interfere with, control or regulate the manufacturing processes which generate hazardous wastes, (5) Ensures the maintenance of adequate records on, and the reporting of, the disposition of all hazardous wastes either generated in or entering this state, (6) Encourages to the extent feasible, the reuse, recycling or reduction of hazardous wastes, (7) Provides adequate care and protection of disposal facilities after the facilities cease to accept hazardous wastes, (8) Provides members of the public and units of local government an opportunity to review and comment upon the construction, operation and long-term care of hazardous waste management facilities, and (9) Meets the minimum requirements of RCRA.

In furtherance of its objectives, the legislature adopted a number of statutes setting out general and specific hazardous waste rulemaking authority. Some of these rulemaking provisions are mandatory,

while others are discretionary. Section 291.05, Stats., requires the department to adopt by rule EPA's criteria for identifying the characteristics of hazardous waste, and to adopt EPA's lists of hazardous wastes and hazardous constituents, with limited exceptions. Rules governing hazardous waste transportation and the use of manifests are also mandated, as are rules governing specific aspects of hazardous waste generation, treatment, storage and disposal, and license, plan approval and review fees to cover the costs of hazardous waste activities. Discretionary rulemaking authority was granted to prohibit certain methods of treatment or disposal of particular wastes, and to exempt by rule certain persons who generate, transport, treat, store or dispose of hazardous wastes from requirements that would otherwise apply if such action does not present a significant hazard to public health and safety or the environment.

Finally, s. 227.11(2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

4. Related statute or rule: Chapters 160, 287, 289, 292, 293 and 299, Stats., and chs. NR 2, 140, 141, 182, 500 to 590, 700 to 754 and 812, Wis. Adm. Code.

5. Plain language analysis of the proposed rule: Wisconsin's hazardous waste management program under ch. 291, Stats., is intended to ensure that hazardous waste is managed safely from the moment it is generated to the moment it is finally disposed. The current and revised rules implement that program. They include procedures to facilitate the proper identification and classification of hazardous waste. Generators of hazardous waste are classified as Large Quantity, Small Quantity, and Very Small Quantity, based on the amounts and types of waste generated, and are subject to different degrees of regulation accordingly. The rules require generators to properly identify and handle their hazardous wastes, and to ensure that the wastes are properly recycled or transported to authorized facilities for treatment, storage or disposal. Hazardous waste treatment, storage and disposal facilities are subject to extensive licensing requirements, including department review and approval, and input from the public before receiving a license to operate the facilities. Licenses require compliance with the department's hazardous waste rules and with the facilities' approved plans of operation. Facility owners and operators also must provide proof of financial responsibility to ensure that the facilities meet closure requirements at the end of their operating lives without leaving behind environmental pollution. Companies that recycle hazardous waste are conditionally exempt from most of the facility licensing requirements to encourage the recycling and reuse of hazardous waste that would otherwise be sent for disposal. Upon referral to the Attorney General, violations of the hazardous waste rules may be enjoined by state courts and are subject to civil and criminal penalties.

The proposed rules incorporate relevant portions of EPA's changes to the hazardous waste manifest system, adopted at 70 FR 10776 (March 4, 2005) and correcting amendments adopted at 70 FR 35034 (June 16, 2005).

Hazardous waste generators, transporters, and treatment, storage and disposal facilities have been required by law to use hazardous waste manifests for more than 20 years. The manifests provide a complete paper trail of a waste's progress from a generator through treatment or storage to final disposal. Although this is a federally mandated requirement, states have had the option to provide and require the use of state-specific manifest forms, which Wisconsin has done.

The EPA's changes to the hazardous waste manifest system include mandatory use of a new federal manifest form. State-specific forms can no longer be used after the federal requirements take effect in September 2006, and the federal forms must be obtained from a select number of EPA-certified printers.

The proposed rules eliminate all Wisconsin-specific manifest requirements, including the use of the Wisconsin manifest form for waste shipped into or within the state, or to another state that did not supply manifest forms. Instead, the revised rules propose to require the use of national uniform manifest forms with a standardized set of instructions and requirements that apply in all states. The EPA regulations require certification from EPA in order to print and distribute the national uniform manifest forms. Manifest users will obtain manifests from EPA-certified printers, rather than obtaining them from the department.

The department will continue to require copies of final signed manifests to be sent to the department for shipments received by Wisconsin treatment and storage facilities, and from generators for shipments of waste sent out of state for treatment disposal.

6. Summary of and preliminary comparison with any existing or proposed federal regulation: The proposed rules will conform Wisconsin's hazardous waste manifest requirements to the new federal hazardous waste manifest regulations, adopted at 70 FR 10776 (March 4, 2005) and correcting amendments adopted at 70 FR 35034 (June 16, 2005), and found at 40 CFR§ 260, et seq., which take effect nationwide September 5, 2006. EPA is improving and modernizing the hazardous waste tracking system by standardizing the Uniform Hazardous Waste Manifest form. Standardizing the form streamlines the waste handling process, helps interstate commerce, and reduces regulatory paperwork. A streamlined process will save waste handlers and regulators time and money, while guaranteeing the continued, safe management of hazardous waste. EPA estimates the annual national burden reduction to be between \$12 and \$ 20 million.

The hazardous waste Manifest forms:

- Are standardized in content and appearance.
- Enhance reporting of international waste shipments (imports and exports).
- Are available from a wide range of sources.
- Clarify processing procedures for rejected waste shipments and shipment container residues.

The new system reduces or eliminates many of the variabilities in state manifest requirements. For example, the new Manifest form uses check boxes and adds fields to better track "difficult" shipments, such as container residues, rejected wastes, and transboundary shipments.

The standard Manifest forms will be printed according to a precise specification to assure uniformity. Each form will carry a unique preprinted manifest tracking number. This change allows waste handlers with multi-state operations to register and use their own manifest forms everywhere they do business. EPA still has oversight of the registration process. Recordkeeping, reporting requirements, and other changes streamline and vastly improve hazardous waste tracking.

7. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois and Michigan)

The EPA regulation establishes a standard (nationally uniform) RCRA manifest form that will be required in every state, tribal, and US territorial jurisdiction. This replaces the current approach, which requires states to implement the federal format (the Uniform Manifest Form 8700-22 and 22A), but allows each state to vary the federal format slightly and to limit distribution of their specific manifest forms to members of their regulated communities. The current approach results in many waste handlers having to obtain multiple manifest forms and follow multiple data formats for each of the various states in which they transport hazardous wastes. Under the EPA regulation, varying state-specific manifest formats will be eliminated, and the revised manifest form can be obtained from a greater number of registered sources (i.e., states, commercial printers, and waste handlers who register with EPA to print and distribute forms). The EPA regulation requires that all manifest forms be printed to a precise federal printing specification to assure uniformity and quality. Moreover, each form must have a unique preprinted manifest tracking number that will identify a waste shipment individually in all tracking systems.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the rule:

The proposed rule tracks changes to EPA's manifest regulations and is based on EPA's data and methodologies, set out at 70 FR 10776 (March 4, 2005) and correcting amendments adopted at 70 FR 35034 (June 16, 2005).

9. Any analysis and supporting documentation that the agency used to determine in the rule's effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report: The department received Hazardous Waste Program authorization from EPA in 1986. Since that time, there have been numerous revisions to the federal requirements with the department lagging behind in seeking further authorization and implementing updates to existing authorization. In order to maintain authorization, the Wisconsin program must be at least equivalent to the federal requirements. Thus, our flexibility to do something different than required by federal requirements is limited.

According to EPA, its new regulation is designed to provide regulatory relief to upwards of 139,000 entities in at least 45 industrial sub-sectors, who are involved in transporting RCRA hazardous wastes every year for off-site management. About 12 million tons of hazardous waste (non-wastewaters and wastewaters) per year are manifested for shipment (i.e. transport by truck, rail or barge), involving 2.4 to 5.1 million RCRA manifests, requiring about 4.4 to 9.2 million waste handler labor hours, costing about \$187 to \$733 million annually. In addition, 34 state governments reportedly spend 199,000 to 416,000 labor hours costing \$6.3 to \$37 million annually to administer the current RCRA hazardous waste manifest program, which when added to waste handler burden, totals 4.6 to 9.7 million hours (\$193 to \$770 million) per year in baseline national paperwork burden. Relative to this paperwork burden baseline, EPA estimates that today's final rule revisions to the RCRA manifest form are expected to produce a national total of \$12.7 to \$20.6 million in average annual paperwork burden reduction benefits associated with a reduction of 249,000 to 397,000 annual burden hours.

10. Effect on small business, including how the rule will be enforced.

Note: If the costs are the same as under the current rules or are reduced under the rules, no new costs are indicated in the summary (below).

There are no new costs to the private sector or enforcement impacts to small business compared to the existing rules. Potential exists for cost savings.

Like the current rules, the revised rules will be enforced by department staff through compliance assistance, complaint follow-up and inspections. If a violation is found, the department uses a stepped enforcement process similar to the process it uses for other environmental programs. This stepped process includes the following:

- Notice of non-compliance, this is typically the first step in dealing with a problem and is usually done by a program specialist through a letter to the facility. It's expected that the facility, once notified of the problem will, correct the problem quickly.
- Notice of Violation, this is typically the second step in dealing with a problem and is a higher level of enforcement. Typically, the Notice of non-compliance hasn't resulted in the problem being resolved and this step includes an opportunity for a face to face meeting with program and enforcement staff. At this meeting, it's expected that the facility will make commitments to resolve the problem and will follow through.

- Referral to the Attorney General for prosecution and injunctive relief, when appropriate. Formal civil and criminal enforcement mechanisms and penalties for hazardous waste violations are established in subchapter V. of ch. 291, Wis. Stats.

To help ensure consistency, the department will continue to use EPA's (Office of Enforcement and Compliance Assistance) guidance in evaluating the significance of violations and the level of response as part of our stepped enforcement process.

11. Agency contact person:

Ms. Patricia Chabot, WA/3
 Wisconsin Department of Natural Resources
 P.O. Box 7921
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SECTION 1. NR 660.10 (21), (76) and (77) are amended to read:

NR 660.10 (21) "Designated facility" means a hazardous waste treatment, storage or disposal facility which (1) has received a license (or interim license) according to ch. NR 670, (2) has received a permit (or interim permit) from a state authorized according to 40 CFR part 271 or (3) is regulated under s. NR 661.06 (3) (b) or subch. F of ch. NR 666, and (4) that has been designated on the manifest by the generator pursuant to ~~s. NR 660.20~~ s. NR 662.020. "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste according to s. NR 664.0072 (6) or 665.0072 (6). If a waste is destined to a facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility shall be a facility allowed by the receiving state to accept such waste.

(76) "Manifest" has the meaning given in s. 291.01(11), Stats. "Manifest" also means the shipping document ~~department form 4400-66P~~ EPA Form 8700-22 and, if necessary, EPA form 8700-22A, originated and signed by the generator or offeror according to the instructions in the appendix to 40 CFR part 262 and the applicable requirements of chs. NR 662 to 665.

(77) "Manifest ~~document~~ tracking number" means the ~~EPA 12-digit alphanumeric~~ identification number assigned to the generator plus a unique 5 digit document number the generator assigns to the manifest for recording and reporting purposes, a unique 3 letter suffix preceded by 9 numerical digits, which is pre-printed in Item 4 of the manifest by a registered source.

SECTION 2. NR 661.07 (2) (a) 3. a. and b. are amended to read:

NR 661.07 (2) (a) 3. a. No more than 3% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to ~~440~~ 119 gallons in size.

b. No more than 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is greater than ~~440~~ 119 gallons in size.

SECTION 3. NR 662.020 (1) is amended to read:

NR 662.020 (1) A generator who transports, or offers for ~~transportation~~ transport, a hazardous waste for off-site treatment, storage or disposal, ~~or the owner or operator of a treatment, storage or disposal facility who offers for transport a rejected hazardous waste load~~, shall prepare a manifest ~~as follows:~~ OMB control number 2050-0039, on EPA Form 8700-22, and if necessary, EPA Form 8700-22A, according to the instructions in the appendix to 40 CFR part 262.

~~(a) If s. NR 662.021 requires use of a Wisconsin manifest, use the Wisconsin manifest form 4400-66P according to the instructions on the back of the form.~~

~~(b) If the EPA manifest continuation form 8700-22A is used, complete the form according to the instructions in the appendix to 40 CFR part 262 and include the following additional information:~~

~~1. The state manifest document number.~~

~~2. The hazardous waste number corresponding to the name of the waste being shipped.~~

~~(c) If s. NR 662.021 requires use of another state's manifest, use the other state's manifest forms according to that state's manifest instructions and include the additional information required in par. (b) 1. and 2.~~

~~Note: The Wisconsin manifest form 4400-66P may be obtained from the department by E-mail: waste.management@dnr.state.wi.us, phone (608) 266-2111 or Fax (608) 267-2768.~~

SECTION 4. NR 662.021 is repealed.

SECTION 5. NR 662.023 (3) **Note** is created to read:

Note: Send copies of manifests to the Department of Natural Resources, Bureau of Waste and Materials Management, Box 8094, Madison, WI 53708.

SECTION 6. NR 662.027 is created to read:

NR 662.027 Waste minimization certification. A generator who initiates a shipment of hazardous waste shall certify one of the following statements in Item 15 of the uniform hazardous waste manifest:

(1) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

(2) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

SECTION 7. NR 662.032 (2) is amended to read:

NR 662.032 (2) Before transporting hazardous waste or offering hazardous waste for ~~transportation~~ transport off-site, a generator shall mark each container of ~~440~~ 119 gallons or less used in the transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

"HAZARDOUS WASTE—~~State and Federal Law Prohibit~~ Prohibits Improper Disposal. If found, contact the nearest police or public safety authority, ~~state emergency management, state department of natural resources or~~ the U.S. Environmental Protection Agency.

Generator's Name and Address _____.

Generator's EPA Identification Number _____.

Manifest Document Tracking Number _____."

SECTION 8. NR 662.034 (13) is created to read:

NR 662.034 (13) REJECTED WASTE SHIPMENTS. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue according to the manifest discrepancy provisions of s. NR 664.0072 or 665.0072 may accumulate the returned waste on-site according to subs. (1) and (2), depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator shall do one of the following:

- (a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest.
- (b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

SECTION 9. NR 662.054 (3) and (5) are amended to read:

NR 662.054 (3) In ~~special handling instructions and additional information~~ the international shipments block, the primary exporter shall ~~identify~~ check the export box and enter the point of ~~departure~~ exit (city and state) from the United States.

(5) ~~In lieu of the requirements of 40 CFR 262.21, the primary exporter shall obtain the manifest form from the primary exporter's state if that state supplies the manifest form and requires its use. If the primary exporter's state does not supply the manifest form, the primary exporter may obtain a manifest form from any source.~~ The primary exporter may obtain the manifest from any source that is registered with EPA as a supplier of manifests (e.g., states, waste handlers or commercial forms printers).

SECTION 10. NR 662.060 (3) is amended to read:

NR 662.060 (3) A person who imports hazardous waste ~~shall~~ may obtain the manifest form ~~from the consignment state if the state supplies the manifest and requires its use. If the consignment state does not supply the manifest form, then the manifest form may be obtained from any source that is registered with EPA as a supplier of manifests (states, waste handlers or commercial forms printers).~~

SECTION 11. NR 662.060 (4) and (5) are created to read:

NR 662.060 (4) In the international shipments block, the importer shall check the import box and enter the point of entry (city and state) into the United States.

(5) The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to EPA in accordance with 40 CFR 264.71 (a) (3) and 40 CFR 265.71 (a) (3).

SECTION 12. NR 662.192 (5) is created to read:

NR 662.192 (5) REJECTED WASTE SHIPMENTS. A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of s. NR 664.0072 or 665.0072 may accumulate the returned waste on-site in accordance with subs. (1), (2) and (3), depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator shall do one of the following:

- (a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest.
- (b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

SECTION 13. NR 663.20 (1) and (7) (a) and (b) are amended to read:

NR 663.20 The manifest system. (1) (a) A transporter may not accept hazardous waste from a generator unless ~~it the transporter is accompanied by~~ also provided with a manifest signed in accordance with the ~~provisions requirements~~ of ~~s. NR 662.020 s. NR 662.023~~, unless the generator meets the conditional manifest exemptions in s. NR 662.220 (5) (f), (6) (f) or 662.191.

(b) In the case of exports other than those subject to subch. H of ch. NR 662, a transporter may not accept waste from a primary exporter or other person if the transporter knows the shipment does not conform to the EPA acknowledgment of consent; and unless, in addition to a manifest signed by the generator in accordance with the ~~provisions requirements~~ of ~~s. NR 662.020 s. NR 662.023~~, ~~the waste is the transporter shall also accompanied by~~ be provided with an EPA acknowledgment of consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk

shipment)). For exports of hazardous waste subject to the requirements of subch. H of ch. NR 662, a transporter may not accept hazardous waste without a tracking document that includes all information required by s. NR 662.084.

(7) ~~(a) Indicate on the manifest the date the hazardous waste left the United States.~~ Sign and date the manifest in the international shipments block to indicate the date that the shipment left the United States.

~~(b) Sign the manifest and retain~~ Retain one copy in accordance with ~~s. NR 663.22 (3)~~ s. NR 663.22
(4).

SECTION 14. NR 663.21(2) is amended to read:

NR 663.21 (2) (a) If the hazardous waste cannot be delivered in accordance with sub. (1) because of an emergency condition other than rejection of the waste by the designated facility, then the transporter shall contact the generator for further directions and shall revise the manifest according to the generator's instructions.

(b) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter shall obtain the following:

1. For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter shall retain a copy of this manifest in accordance with s. NR 663.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter shall obtain a new manifest to accompany the shipment, and the new manifest shall include all of the information required in s. NR 664.0072 (5) (a) to (f) or (6) (a) to (f) or s. NR 665.0072 (5) (a) to (f) or (6) (a) to (f).

2. For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and identification number for the alternate facility or generator to whom the shipment shall be delivered. The transporter shall retain a copy of the manifest in accordance with s. NR 663.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter shall obtain a new manifest for the shipment and comply with s. NR 664.0072 (5) (a) to (f) or 665.0072 (5) (a) to (f).

SECTION 15. NR 664.0070 is amended to read:

NR 664.0070 Applicability. This subchapter applies to owners and operators of both on-site and off-site facilities, except as s. NR 664.0001 provides otherwise. Sections NR 664.0071, 664.0072 and 664.0076 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, and to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under s. NR 666.203 (1). ~~Section NR 664.0073 (2) (i)~~ Section NR 664.0073 (2) only applies to licensees who treat, store or dispose of hazardous wastes on-site where the wastes were generated.

SECTION 16. NR 664.0071 is amended to read:

NR 664.0071 Use of manifest system. (1) ~~(a)~~ If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or an agent, shall do all of the following:

~~(a) Sign~~ sign and date ~~each copy of the manifest as indicated in par. (b) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.~~

~~(b) Note any significant discrepancies in the manifest (as defined in s. NR 664.0072(1)) on each copy of the manifest. If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or an agent shall do all of the following:~~

1. Sign and date, by hand, each copy of the manifest.
2. Note any discrepancies, as defined in s. NR 664.0072 (1), on each copy of the manifest.
3. Immediately give the transporter at least one copy of the manifest.
4. Within 30 days of delivery, send a copy of the manifest to the generator and, within 45 days, send one copy of the manifest to the department in an electronic format specified by the department.
5. Retain at the facility a copy of each manifest for at least 3 years from the date of delivery.
6. Pay a manifest fee for each manifest submitted as designated in Appendix II of ch. NR 670. The department will bill each facility annually for accumulated manifest review fees.

~~Note: The department does not intend that the owner or operator of a facility whose procedures under s. NR 664.0013 (3) include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. Section NR 664.0072 (2), however, requires reporting an unreconciled discrepancy discovered during later analysis.~~

~~(c) Immediately give the transporter at least one copy of the signed manifest.~~ If a facility receives hazardous waste imported from a foreign source, the owner or operator of the receiving facility shall mail a copy of the manifest to the following address within 30 days of delivery: International Compliance

Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

~~(d) Within 30 days after the delivery:~~

- ~~1. Send one copy of the manifest to the generator.~~
- ~~2. Send one copy of the manifest to the department in an electronic format specified by the department.~~

~~(e) Retain at the facility a copy of each manifest for at least 3 years from the date of delivery.~~

~~(f) Pay a manifest fee for each manifest submitted as designated in Appendix II of ch. NR 670. The department will bill each facility annually for accumulated manifest review fees.~~

(2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or an agent, shall do all of the following:

(a) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received.

(b) Note any significant discrepancies (as defined in s. NR 664.0072 (1)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper.

Note: The department does not intend that the owner or operator of a facility whose procedures under s. NR 664.0013 (3) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Section NR 664.0072 (2), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received).

(d) Within 30 days after the delivery, send one copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator and, within 45 days, send one copy of the manifest to the department in an electronic format specified by the department. ~~However, if the manifest has not been received within 30 days after delivery, the owner or operator, or an agent, shall send a copy of the shipping paper signed and dated to the generator.~~

Note: Section NR 662.023 (3) requires the generator to send 3 copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

(e) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least 3 years from the date of delivery.

(f) Pay a manifest fee for each manifest submitted as designated in Appendix II of ch. NR 670. The department will bill each facility annually for accumulated manifest review fees.

(3) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of ch. NR 662.

Note: The provisions of s. NR 662.034 or 662.192 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of s. NR 662.034 or 662.192 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(4) Within 3 working days of the receipt of a shipment subject to subch. H of ch. NR 662, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the:

~~Office of Enforcement and Compliance Assurance~~

~~Office of Compliance; Enforcement Planning, Targeting and Data Division (2222A)~~

~~U.S. Environmental Protection Agency~~

~~1200 Pennsylvania Ave., NW~~

~~Washington, DC 20460~~

Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least 3 years from the date of signature.

(5) The owner or operator of a facility shall determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. The owner or operator of a facility shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

SECTION 17. NR 664.0072 is amended to read:

NR 664.0072 Manifest discrepancies. (1) Manifest discrepancies are any of the following:

(a) Significant differences, as defined by sub. (2), between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(b) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage or disposal facility cannot accept.

(c) Container residues, which are residues that exceed the quantity limits for empty containers set forth in s. NR 661.07 (2).

(2) Significant discrepancies in quantity are, for bulk waste, variations greater than 10% in weight, and for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid or toxic constituents not reported on the manifest or shipping paper.

(2) (3) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(4) (a) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in s. NR 661.07 (2), the facility owner or operator shall consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator shall send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(b) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this section, it shall ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator shall provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under sub. (5) or (6).

(5) Except as provided in par. (g), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator shall prepare a new manifest in accordance with s. NR 662.020 (1) and the following instructions:

(a) Write the generator's EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(b) Write the name of the alternate designated facility and the facility's EPA ID number in the designated facility block (Item 8) of the new manifest.

(c) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(d) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(e) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT description) of the new manifest and write the container types, quantity and volume of waste.

(f) Sign the generator's or offeror's certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(g) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the alternate facility space. The facility owner or operator shall retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator shall use a new manifest and comply with pars. (a) to (f).

(6) Except as provided in par. (g), for rejected wastes and residues that must be sent back to the generator, the facility owner or operator shall prepare a new manifest in accordance with s. NR 662.020 (1) and the following instructions:

(a) Write the facility's EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(b) Write the name of the initial generator and the generator's EPA ID number in the designated facility block (Item 8) of the new manifest.

(c) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(d) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(e) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity and volume of waste.

(f) Sign the generator's or offeror's certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(g) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the alternate facility space. The facility owner or operator shall retain a copy for its records and then give the remaining copies of the

manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator shall use a new manifest and comply with pars. (a) to (f).

(7) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in s. NR 661.07 (2) after it has signed, dated and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator shall amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator shall also copy the manifest tracking number from Item 4 of the new manifest to the discrepancy space of the amended manifest, and shall re-sign and date the manifest to certify to the information as amended. The facility owner or operator shall retain the amended manifest for at least 3 years from the date of amendment and shall, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended. Within 45 days, the facility owner or operator shall also send one copy of the amended manifest to the department in an electronic format specified by the department.

SECTION 18. NR 664.0076 is amended to read:

NR 664.0076 Unmanifested waste report. (1) If a facility accepts for treatment, storage or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in s. NR 663.20 (5) (b) s. NR 663.20 (5), and if the waste is not excluded from the manifest requirement by s. NR 662.220 chs. NR 660 to 679, then the owner or operator shall prepare and submit a report to the department within 15 days after receiving the waste. The unmanifested waste report shall be designated 'Unmanifested Waste Report' and include contain all of the following information:

- (1) (a) The EPA identification number, name and address of the facility.
- (2) (b) The date the facility received the waste.
- (3) (c) The EPA identification number, name and address of the generator and the transporter, if available.
- (4) (d) A description and the quantity of each unmanifested hazardous waste the facility received.
- (5) (e) The method of treatment, storage or disposal for each hazardous waste.
- (6) (f) The certification signed by the owner or operator of the facility or an authorized representative.
- (7) (g) A brief explanation of why the waste was unmanifested, if known.

~~Note: Very small quantity hazardous waste generators are excluded from regulation under this chapter and are not required to use a manifest. Where a facility receives unmanifested hazardous wastes, the department suggests that the owner or operator obtain from each generator a certification that the generator qualifies for exclusion.~~

~~Otherwise, the department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.~~

SECTION 19. NR 664.1086 (3) (d) 1. and (4) (d) 1. are amended to read:

NR 664.1086 (3) (d) 1. In the case when hazardous waste is already in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container in s. NR 661.07(2)), visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. Conduct the container visual inspection on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to this subchapter). For purposes of this subdivision, the date of acceptance is the date of signature that the facility owner or operator enters on item 20 of the ~~Wisconsin~~ uniform hazardous waste manifest (~~department form 4400-66P and EPA form forms 8700-22 and 8700-22A~~), as required in s. NR 664.0071. If a defect is detected, repair the defect according to subd. 3.

(4) (d) 1. In the case when hazardous waste is already in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container in s. NR 661.07(2)), visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. Conduct the container visual inspection on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the standards in this subchapter). For purposes of this subdivision, the date of acceptance is the date of signature that the facility owner or operator enters on item 20 of the ~~Wisconsin~~ uniform hazardous waste manifest (~~department form 4400-66P and EPA form forms 8700-22 and 8700-22A~~), as required in s. NR 664.0071. If a defect is detected, repair the defect according to subd. 3.

SECTION 20. NR 665.0071 is amended to read:

NR 665.0071 Use of manifest system. (1)(a) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or an agent, shall ~~do all of the following:~~

~~(a) Sign~~ sign and date ~~each copy of the manifest as indicated in par. (b) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.~~

~~(b) Note any significant discrepancies in the manifest (as defined in s. NR 665.0072(1)) on each copy of the manifest. If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or an agent shall do all of the following:~~

- ~~1. Sign and date, by hand, each copy of the manifest.~~
- ~~2. Note any discrepancies, as defined in s. NR 665.0072 (1), on each copy of the manifest.~~
- ~~3. Immediately give the transporter at least one copy of the manifest.~~
- ~~4. Within 30 days of delivery, send a copy of the manifest to the generator and, within 45 days, send one copy of the manifest to the department in an electronic format specified by the department.~~
- ~~5. Retain at the facility a copy of each manifest for at least 3 years from the date of delivery.~~
- ~~6. Pay a manifest fee for each manifest submitted as designated in Appendix II of ch. NR 670. The department will bill each facility annually for accumulated manifest review fees.~~

~~Note: The department does not intend that the owner or operator of a facility whose procedures under s. NR 665.0013 (3) include waste analysis shall perform that analysis before signing the manifest and giving it to the transporter. Section NR 665.0072 (2), however, requires reporting an unreconciled discrepancy discovered during later analysis.~~

~~(c) Immediately give the transporter at least one copy of the signed manifest. If a facility receives hazardous waste imported from a foreign source, the owner or operator of the receiving facility shall mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.~~

~~(d) Within 30 days after the delivery:~~

- ~~1. Send one copy of the manifest to the generator.~~
- ~~2. Send one copy of the manifest to the department in an electronic format specified by the department.~~

~~(e) Retain at the facility a copy of each manifest for at least 3 years from the date of delivery.~~

~~(f) Pay a manifest fee for each manifest submitted as designated in Appendix II of ch. NR 670. The department will bill each facility annually for accumulated manifest review fees~~

(2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or an agent, shall do all of the following:

(a) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received.

(b) Note any significant discrepancies (as defined in s. NR 665.0072 (1)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper.

Note: The department does not intend that the owner or operator of a facility whose procedures under s. NR 665.0013 (3) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Section NR 665.0072 (2), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received).

(d) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator and, within 45 days, send one copy of the manifest to the department in an electronic format specified by the department. ~~However, if the manifest has not been received within 30 days after delivery, the owner or operator, or an agent, shall send a copy of the shipping paper signed and dated to the generator.~~

Note: Section NR 662.023 (3) requires the generator to send 3 copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

(e) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least 3 years from the date of delivery.

(f) Pay a manifest fee for each manifest submitted, as designated in Appendix II of ch. NR 670. The department will bill each facility annually for accumulated manifest review fees.

(3) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements ch. NR 662.

Note: The provisions of s. NR 662.034 or 662.192 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of s. NR 662.034 or 662.192 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(4) Within 3 working days of the receipt of a shipment subject to subch. H of ch. NR 662, the owner or operator of the facility shall provide a copy of the tracking document bearing all required signatures to the notifier, to the:

~~Office of Enforcement and Compliance Assurance~~

~~Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)~~

~~U.S. Environmental Protection Agency~~

~~1200 Pennsylvania Ave., NW~~

~~Washington, DC 20460~~

Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave.,

NW, Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document shall be maintained at the facility for at least 3 years from the date of signature.

(5) The owner or operator of a facility shall determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. The owner or operator of a facility shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

SECTION 21. NR 665.0072 is amended to read:

NR 665.0072 Manifest discrepancies. (1) Manifest discrepancies are:

(a) Significant differences, as defined by sub. (2), between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(b) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage or disposal facility cannot accept.

(c) Container residues, which are residues that exceed the quantity limits for empty containers set forth in s. NR 661.07 (2).

(2) Significant discrepancies in quantity are, for bulk waste, variations greater than 10% in weight, and for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid or toxic constituents not reported on the manifest or shipping paper.

(2) (3) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(4) (a) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in s. NR 661.07 (2), the facility owner or operator shall consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator shall send the waste to the

alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(b) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this section, it shall ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator shall provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under sub. (5) or (6).

(5) Except as provided in par. (g), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator shall prepare a new manifest in accordance with s. NR 662.020 (1) and the following instructions:

(a) Write the generator's EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(b) Write the name of the alternate designated facility and the facility's EPA ID number in the designated facility block (Item 8) of the new manifest.

(c) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(d) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(e) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT description) of the new manifest and write the container types, quantity and volume of waste.

(f) Sign the generator's or offeror's certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(g) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the alternate facility space. The facility owner or operator shall retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator shall use a new manifest and comply with pars. (a) to (f).

(6) Except as provided in par. (g), for rejected wastes and residues that must be sent back to the generator, the facility owner or operator shall prepare a new manifest in accordance with s. NR 662.020 (1) and the following instructions:

(a) Write the facility's EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(b) Write the name of the initial generator and the generator's EPA ID number in the designated facility block (Item 8) of the new manifest.

(c) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(d) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(e) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity and volume of waste.

(f) Sign the generator's or offeror's certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(g) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the alternate facility space. The facility owner or operator shall retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator shall use a new manifest and comply with pars. (a) to (f).

(7) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in s. NR 661.07 (2) after it has signed, dated and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator shall amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator shall also copy the manifest tracking number from Item 4 of the new manifest to the discrepancy space of the amended manifest, and shall re-sign and date the manifest to certify to the information as amended. The facility owner or operator shall retain the amended manifest for at least 3 years from the date of amendment and shall, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended. Within 45 days, the facility owner or operator shall also send one copy of the amended manifest to the department in an electronic format specified by the department.

SECTION 22. NR 665.0076 is amended to read:

NR 665.0076 Unmanifested waste report. (1) If a facility accepts for treatment, storage or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in ~~s. NR 663.20 (5) (b)~~ s. NR 663.20 (5), and if the waste is not excluded from the manifest requirement by ~~s. NR 662.220~~ chs. NR 660 to 679, then the owner or operator shall prepare and submit a report to the department within 15 days after receiving the waste. The unmanifested waste report shall ~~be designated 'Unmanifested Waste Report' and include~~ contain all of the following information:

- ~~(1)~~ (a) The EPA identification number, name and address of the facility.
- ~~(2)~~ (b) The date the facility received the waste.
- ~~(3)~~ (c) The EPA identification number, name and address of the generator and the transporter, if available.
- ~~(4)~~ (d) A description and the quantity of each unmanifested hazardous waste the facility received.
- ~~(5)~~ (e) The method of treatment, storage or disposal for each hazardous waste.
- ~~(6)~~ (f) The certification signed by the owner or operator of the facility or an authorized representative.
- ~~(7)~~ (g) A brief explanation of why the waste was unmanifested, if known.

~~Note: Very small quantity hazardous waste generators are excluded from regulation under this chapter and are not required to use a manifest. Where a facility receives unmanifested hazardous wastes, the department suggests that the owner or operator obtain from each generator a certification that the generator qualifies for exclusion. Otherwise, the department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.~~

SECTION 23. NR 665.1087 (3) (d) 1. and (4) (d) 1. are amended to read:

NR 665.1087 (3) (d) 1. In the case when hazardous waste is already in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container in s. NR 661.07(2)), visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. Conduct the container visual inspection on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to this subchapter). For purposes of this subdivision, the date of acceptance is the date of signature that the facility owner or operator enters on item 20 of the ~~Wisconsin~~ uniform hazardous waste manifest (~~department form 4400-66P and EPA form~~ forms 8700-22 and 8700-22A), as required in s. NR 664.0071. If a defect is detected, repair the defect according to subd. 3.

(4) (d) 1. In the case when hazardous waste is already in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24

hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container in s. NR 661.07(2)), visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. Conduct the container visual inspection on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the standards in this subchapter). For purposes of this subdivision, the date of acceptance is the date of signature that the facility owner or operator enters on item 20 of the ~~Wisconsin~~ uniform hazardous waste manifest (department form 4400-66P and EPA form forms 8700-22 and 8700-22A), as required in s. NR 664.0071. If a defect is detected, repair the defect according to subd. 3.

SECTION 24. NR 666.905(1) (f) is amended to read:

NR 666.905 (1) (f) The manifest consists of at least the number of copies which will provide the collection facility owner or operator, each transporter, the owner or operator of the designated facility, and the department with one copy each for their records and another final, signed copy to be returned to the collection facility owner or operator. Prepare and use a manifest ~~according to the following:~~ OMB control number 2050-0039, on EPA form 8700-22, and if necessary, EPA Form 8700-22A, according to the instructions in the appendix to 40 CFR part 262, and the following:

- ~~1. If the state to which the waste is shipped is Wisconsin or a state that does not supply a manifest, use the Wisconsin manifest form 4400-66P according to the instructions on the back of the form.~~
- ~~2. If the EPA manifest continuation form 8700-22A is used, complete the form according to the instructions in the appendix to 40 CFR part 262, and include the state manifest document number and the hazardous waste number corresponding to the name of the waste being shipped.~~
- ~~3. If the state to which the waste is shipped is other than Wisconsin and that state supplies the manifest, use the other state's manifest forms according to that state's manifest instructions and include the additional information required in par. 2.~~

~~Note: The Wisconsin manifest form 4400-66P may be obtained from the department by telephone at (608)266-2111, fax (608) 267-2768 or E-mail: waste.management@dnr.state.wi.us~~

~~Title 40 CFR part 262 may be obtained from: <http://www.access.gpo.gov/ecfr>~~

- ~~4. Designate on the manifest one facility which is licensed or permitted to handle the waste described on the manifest. One alternate facility may be designated on the manifest which is licensed or permitted to handle the generator's waste in the event an emergency prevents delivery of the waste to the primary designated facility.~~

- ~~5. If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, designate another facility or instruct the transporter to return the waste.~~

~~6. Sign the manifest certification by hand, and obtain the handwritten signature of the initial transporter and date of acceptance on the manifest.~~

~~7. Retain one signed copy, and give the transporter the remaining copies of the manifest.~~

~~8. 1.~~ For shipments of hazardous waste outside of Wisconsin, submit a copy of each manifest to the department within 30 days of receiving the signed copy from the designated facility.

~~9. 2.~~ Keep a copy of each manifest signed by the collection facility owner or operator and the initial transporter for 3 years or until facility owner or operator receives a signed copy from the designated hazardous waste facility that received the waste. Retain the final, signed copy of the manifest as a record for at least 3 years from the date the waste was accepted by the initial transporter.

SECTION 25. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

SECTION 26. BOARD ADOPTION. The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 6, 2006.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)